**Ram Singh & Anr. vs. The Judge , M.A.C.T., Bhilwara**
**(S.B.C.WRIT PETITION NO.7952/07)**

Dated:- 5.12.2007.

**HON'BLE MR.JUSTICE SANGEET LODHA**

Mr.Mukesh Patodia, for the petitioner.

**BY THE COURT:-**

This writ petition is directed against the order dated 28.4.2007 passed by the Motor Accidents Claim Tribunal, Bhilwara in M.A.C.T.Case No.814/05 , whereby an application preferred by the petitioners-claimants for the release of the amount kept in fixed deposit in terms of the award dated 13.10.06, has been rejected.

The brief facts of the case are that the petitioners herein preferred a claim petition against Shri Sampat Lal and others u/s 140/166 of the Motor Vehicles Act, 1988( in short "the Act of 1988" hereinafter). On compromise being arrived at between the parties, a consent award for Rs.1,50,000/- was passed in favour of the claimants by the respondent claimants. An amount of Rs.35,000/- was directed to be paid to the each claimant in cash and remaining Rs.80,000/- was ordered to be kept in fixed deposit of Rs.40,000/- in the name of each claimant for a period of 3 years. The claimants were allowed to withdraw the monthly interest payable by the bank on the fixed deposit.

The petitioners preferred an application before the learned

Tribunal stating therein that on account of marriage of their son to be solemnized on 30.4.07 they are in immediate need of money , therefore, the amount kept in fixed deposit under the directions of the learned Tribunal may be ordered to be released.However, the submissions made by the petitioner did not find favour with the learned Tribunal and accordingly, the application preferred by them has been rejected by the Tribunal as baseless , without assigning any reason.

It is submitted by the learned counsel that the petitioners are poor persons and since they were not in position to meet the expenditure from their own sources , they had taken loan to meet the expenditure incurred in the marriage. A copy of the invitation card of marriage has been placed on record as Annexure 3. It is submitted that on account of non payment of the loan amount , interest is accumulated and they are facing great hardship. The learned counsel submitted that the claimants will be able to discharge their liability if the fixed deposit existing in the name of petitioner no.1 is ordered to be released. The learned counsel submits that the application preferred on behalf of petitioner no.2 may be dismissed as not pressed.

It is true that while passing an order for disbursement of the award amount, the Tribunal has to keep in view the overall interest of the claimant and his family. But,then while dealing with the amount of compensation, the need and wishes of the

claimant should also be kept in view inasmuch as ultimately, the amount of compensation belongs to him. In my considered opinion, in the instant case, the learned Tribunal has erred in rejecting the petitioners' application without assigning any reason.

On the facts and in the circumstances of the present case, keeping in view, the need of the claimants petitioners, it is considered appropriate that the amount of Rs.40,000/- kept in fixed deposit in the name of the claimant petitioner Shri Ram Singh is ordered to be released.

In the result, the writ petition is partly allowed. Order impugned dated 28.4.07 passed by the M.A.C.T., Bhilwara is set aside. It is hereby ordered that the amount of Rs.40,000/- kept in fixed deposit in the name of the claimant Shri Ram Singh in terms of award dated 15.10.06 may be released. The application preferred on behalf of Smt. Shanti Devi is dismissed as not pressed. No order as to costs.

**(SANGEET LODHA),J.**